



April 8, 2009

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## ENGROSSED HOUSE BILL No. 1546

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DIGEST OF HB 1546 (Updated April 6, 2009 6:08 pm - DI 73)

**Citations Affected:** IC 2-3.5; IC 5-10.2; IC 5-10.3; IC 5-10.4; noncode.

**Synopsis:** Public pension funds. Permits members of the teachers' retirement fund (TRF) and the public employees' retirement fund (PERF) to change investment selections once each day, with the change being effective on the next business day after the fund receives the change notice. Establishes the market valuation date of a member's investment as of five business days before the date of the member's distribution or annuitization at retirement, disability, or suspension and withdrawal. Codifies a noncode provision that permits members of the legislator's retirement system to change investment selections once each day. Allows a member of the legislators' retirement system to  
(Continued next page)

**Effective:** July 1, 2009; January 1, 2010.

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### Niezgodski, Gutwein

(SENATE SPONSORS — KENLEY, KRUSE, DEIG, TALLIAN)

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January 16, 2009, read first time and referred to Committee on Labor and Employment.  
February 16, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

February 19, 2009, amended, reported — Do Pass.  
February 23, 2009, read second time, amended, ordered engrossed.  
February 24, 2009, engrossed.  
February 25, 2009, read third time, passed. Yeas 95, nays 3.

#### SENATE ACTION

March 3, 2009, read first time and referred to Committee on Pensions and Labor.  
March 26, 2009, reported favorably — Do Pass; reassigned to Committee on Appropriations.  
April 7, 2009, amended, reported favorably — Do Pass.

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EH 1546—LS 7419/DI 102+



## Digest Continued

allocate the investments in the member's account in increments smaller than 10%, if authorized by the PERF board. Allows the PERF board and the TRF board to establish a single composite interest or earnings rate in order to compute the interest or earnings credits on a member's omitted contributions in the guaranteed program or an alternate investment program. Requires employers to submit contributions and reports to PERF and TRF electronically after December 31, 2009, unless the employer obtains a waiver of the requirement for a period not to exceed two years. Allows the PERF and TRF boards to establish by rule due dates for employer contributions and reports. Increases from \$200 to \$1,000 the maximum amount in a member's annuity savings account for purposes of suspending the member's fund membership and paying the annuity savings account in a lump sum. Provides for a thirteenth check for members, survivors, and beneficiaries of PERF.

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April 8, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1546

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 2-3.5-5-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) The PERF  
3 board shall establish alternative investment programs within the fund,  
4 based on the following requirements:

5 (1) The PERF board shall maintain at least one (1) alternative  
6 investment program that is an indexed stock fund and one (1)  
7 alternative investment program that is a bond fund.

8 (2) The programs should represent a variety of investment  
9 objectives.

10 (3) The programs may not permit a member to withdraw money  
11 from the member's account, except as provided in section 6 of this  
12 chapter.

13 (4) All administrative costs of each alternative program shall be  
14 paid from the earnings on that program.

15 (5) A valuation of each member's account must be completed: ~~as~~  
16 ~~of:~~

17 (A) **as of** the last day of each quarter; **and**

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**(B) whenever the member makes a new investment selection, as of the day before the effective date of the member's selection.**

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by the PERF board. The PERF board shall allow a member to make a selection or change any existing selection ~~at least~~ once each ~~quarter~~ **day**.

(2) The PERF board shall implement the member's selection ~~beginning the first day of the next calendar quarter that begins at least thirty (30) days on the next business day~~ after the selection is received by the PERF board. This date is the effective date of the member's selection.

(3) A member may select any combination of the available investment funds, in ten percent (10%) increments **or smaller increments that may be established by the rules of the board.**

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the PERF board's general investment fund.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received **or at an alternate time established by the rules of the board** in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be:

**(1) the market value of the member's investment as of the last day of the quarter date** preceding the member's distribution or

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annuitization at retirement, disability, death, or withdrawal **by five (5) business days;** plus

**(2)** contributions received after that date.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date.

SECTION 2. IC 5-10.2-2-3, AS AMENDED BY P.L.2-2006, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) The annuity savings account consists of:

(1) the members' contributions; and

(2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 5-10.4-3-10.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

(1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1)

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alternative investment program that is a bond fund.

(2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.

(3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.

(4) All administrative costs of each alternative program shall be paid from the earnings on that program or as may be determined by the rules of each board.

(5) **Except as provided in section 4(e) of this chapter,** a valuation of each member's account must be completed: ~~as of:~~

(A) ~~as of~~ the last day of each quarter; ~~or and~~

(B) ~~another time as each board may specify by rule.~~

**(B) whenever the member makes a new investment selection, as of the day before the effective date of the member's selection.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

(1) include a description of the procedure for selecting an alternative investment program;

(2) be understandable by the majority of members; and

(3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

(1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection ~~at least once each quarter.~~ **day.**

(2) The board shall implement the member's selection ~~beginning the first day of the next calendar quarter that begins at least thirty (30) days on the next business~~ after the selection is received by the board. ~~or an alternate date established by the rules of each board.~~ This date is the effective date of the member's selection.

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments or smaller increments that may be established by the rules of each board.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall

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1 reallocate the member's existing balance or balances in  
2 accordance with the member's direction, based on:

3 (A) for an alternative investment program balance, the market  
4 value on the effective date; and

5 (B) for any guaranteed program balance, the account balance  
6 on the effective date.

7 All contributions to the member's account shall be allocated as of  
8 the last day of that quarter or at an alternate time established by  
9 the rules of each board in accordance with the member's most  
10 recent effective direction. The board shall not reallocate the  
11 member's account at any other time.

12 (f) When a member who participates in an alternative investment  
13 program transfers the amount credited to the member from one (1)  
14 alternative investment program to another alternative investment  
15 program or to the guaranteed program, the amount credited to the  
16 member shall be valued at the market value of the member's  
17 investment, as of the day before the effective date of the member's  
18 selection. ~~or at an alternate time established by the rules of each board.~~  
19 When a member who participates in an alternative investment program  
20 retires, becomes disabled, dies, or suspends membership and withdraws  
21 from the fund, the amount credited to the member shall be:

22 (1) the market value of the member's investment as of the ~~last day~~  
23 ~~of the quarter date~~ preceding the member's distribution or  
24 annuitization at retirement, disability, death, or suspension and  
25 withdrawal **by five (5) business days; plus**

26 (2) contributions received after that date. ~~or at an alternate time~~  
27 ~~established by the rules of each board.~~

28 (g) When a member who participates in the guaranteed program  
29 transfers the amount credited to the member to an alternative  
30 investment program, the amount credited to the member in the  
31 guaranteed program is computed without regard to market value and is  
32 based on the balance of the member's account in the guaranteed  
33 program as of the ~~last day of the quarter preceding~~ **before** the effective  
34 date of the transfer. ~~However, each board may by rule provide for an~~  
35 ~~alternate valuation date.~~ When a member who participates in the  
36 guaranteed program retires, becomes disabled, dies, or suspends  
37 membership and withdraws from the fund, the amount credited to the  
38 member shall be computed without regard to market value and is based  
39 on:

40 (1) the balance of the member's account in the guaranteed  
41 program as of the ~~last day of the quarter date~~ preceding the  
42 member's distribution or annuitization at retirement, disability,

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1 death, or suspension and withdrawal by five (5) business days;  
 2 plus  
 3 (2) any contributions received since that date plus interest since  
 4 that date. ~~However, each board may by rule provide for an~~  
 5 ~~alternate valuation date.~~

6 SECTION 3. IC 5-10.2-2-4 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **Except as**  
 8 **provided in subsection (e)**, interest shall be credited and compounded  
 9 at least annually on all amounts credited to the member in the  
 10 guaranteed program. For the guaranteed program, the board shall  
 11 annually establish an interest credit rate equal to or less than the  
 12 investment income earned.

13 (b) **Except as provided in subsection (e)**, the market value of each  
 14 alternative investment program shall be allocated at least annually to  
 15 the members participating in that program.

16 (c) Contributions to the guaranteed program and the alternative  
 17 investment programs shall be invested as of the last day of the quarter  
 18 in which the contributions are received **or at an alternate time**  
 19 **established by the rules of each board.** Contributions to the  
 20 guaranteed program shall begin to accumulate interest at the beginning  
 21 of the quarter after the quarter in which the contributions are received  
 22 **or at an alternate time established by the rules of each board.**

23 (d) When a member retires or withdraws with a balance in the  
 24 guaranteed program, a proportional interest credit determined by the  
 25 board shall be granted for the period elapsed since the last interest date  
 26 on that balance.

27 (e) **This subsection applies whenever the board is required to**  
 28 **establish an interest or earnings rate in order to credit interest or**  
 29 **earnings to an omitted contribution to a member's annuity savings**  
 30 **account. As used in this subsection, "omitted contribution" means**  
 31 **a contribution that is contributed by or on behalf of a member**  
 32 **under IC 5-10.3-7-9 or IC 5-10.4-4-11 and that is received by the**  
 33 **board after the time required by IC 5-10.3-7-12.5 or**  
 34 **IC 5-10.4-7-6(b)(1). Notwithstanding any law to the contrary, each**  
 35 **board may by rule specify:**

36 (1) a single composite interest rate and the period to which the  
 37 rate applies for the purpose of computing the interest credits  
 38 on a member's contributions (including omitted  
 39 contributions) in the guaranteed fund; and

40 (2) a single composite earnings rate for the gain or loss in  
 41 market value for each alternative investment program and  
 42 the period to which the rate applies for the purpose of

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1        computing the gain or loss in market value on a member's  
 2        contributions (including omitted contributions) in the  
 3        alternate investment program.

4        SECTION 4. IC 5-10.2-2-12.5 IS ADDED TO THE INDIANA  
 5        CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6        [EFFECTIVE JULY 1, 2009]: **Sec. 12.5. (a) This section applies to**  
 7        **reports, records, and contributions submitted after December 31,**  
 8        **2009, by an employer.**

9        (b) As used in this section, "electronic funds transfer" has the  
 10       meaning set forth in IC 4-8.1-2-7(f).

11       (c) Except as provided in subsection (e), an employer shall  
 12       submit through the use of electronic funds transfer:

13       (1) the employer contributions determined under section 11 of  
 14       this chapter; and

15       (2) contributions paid by or on behalf of a member under  
 16       IC 5-10.3-7-9 or IC 5-10.4-4-11.

17       (d) Except as provided in subsection (e), an employer shall  
 18       submit in a uniform format through a secure connection over the  
 19       Internet or through other electronic means specified by the board  
 20       the reports and records described in:

21       (1) IC 5-10.3-7-12.5, for the public employees' retirement  
 22       fund; or

23       (2) IC 5-10.4-7-6, for the Indiana state teachers' retirement  
 24       fund.

25       (e) An employer that is unable to comply with either subsection  
 26       (c) or (d), or both, may request that the board grant a waiver of the  
 27       requirement of subsection (c) or (d), or both. The employer must:

28       (1) state the reason for requesting the waiver;

29       (2) provide a date, not to exceed two (2) years from the date  
 30       the employer is first subject to either the electronic funds  
 31       transfer requirement or the electronic reporting requirement  
 32       of this section, by which the employer agrees to comply with  
 33       the requirement of subsection (c) or (d), or both; and

34       (3) sign and verify the waiver form.

35       (f) The board may:

36       (1) grant the employer's request for a waiver; and

37       (2) specify the date by which the employer is required to  
 38       comply with the electronic funds transfer requirement or the  
 39       electronic reporting requirement, or both.

40       (g) The board shall establish a waiver form consistent with this  
 41       section.

42       (h) The board may establish or amend its rules or policies as

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1 **necessary to administer this section.**

2 SECTION 5. IC 5-10.2-3-5 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. ~~Suspension of~~  
4 ~~Membership~~. (a) A member who is not eligible for retirement or  
5 disability retirement may suspend ~~his the member's~~ membership if ~~he~~  
6 **the member** terminates employment.

7 (b) After five (5) continuous years in which ~~he the member~~  
8 performs no service, ~~his the member's~~ membership shall be  
9 automatically suspended by the board unless ~~he is the member has~~  
10 vested status.

11 (c) The board may suspend a member's membership in the fund if:

12 (1) the member has not performed any service in a covered  
13 position during the past two (2) years;

14 (2) the member has not attained vested status in the fund; and

15 (3) the value of the member's annuity savings account is not more  
16 than ~~two hundred one thousand dollars (\$200)~~. **(\$1,000)**.

17 (d) On resuming service the member may claim as creditable  
18 service the period of employment before the suspension of  
19 membership, but only to the extent that the same period of employment  
20 is not being used by another governmental plan for purposes of the  
21 member's benefit in the other governmental plan.

22 SECTION 6. IC 5-10.2-4-2, AS AMENDED BY P.L.115-2008,  
23 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
24 JANUARY 1, 2010]: Sec. 2. (a) Unless a member elects otherwise  
25 under this section or has elected to withdraw the member's annuity  
26 savings account under IC 5-10.2-3-6.5, the retirement benefit for each  
27 member consists of the sum of a pension provided by employer  
28 contributions plus an annuity provided by the amount credited to the  
29 member in the annuity savings account. If a member has elected to  
30 withdraw the member's annuity savings account under IC 5-10.2-3-6.5,  
31 the member's retirement benefit is equal to the pension provided by  
32 employer contributions, unless the member has transferred the  
33 creditable service earned under the public employees' retirement fund  
34 to another governmental retirement plan under IC 5-10.2-3-1(i).

35 (b) If a member has not elected to withdraw the entire amount in the  
36 member's annuity savings account under IC 5-10.2-3-6.5, a member  
37 may choose at retirement or upon a disability retirement to receive a  
38 distribution of:

39 (1) the entire amount credited to the member in the annuity  
40 savings account; or

41 (2) an amount equal to the member's federal income tax basis in  
42 the member's annuity savings account balance as it existed on

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December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3. ~~except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date.~~ However, each board may by rule provide for an alternate valuation date.

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(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

SECTION 7. IC 5-10.3-7-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. **(a)** An employer or department ~~must~~ **shall** make the reports, membership records, or payments required by IC 5-10.3-6 or by sections 10 through 12 of this chapter:

**(1)** not more than thirty (30) days after the end of the calendar quarter, if applicable; ~~or~~

**(2)** another due date specified in sections 10 through 12 of this chapter; **or**

**(3) an alternate due date established by the rules of the board.**

**(b)** If the employer or department does not make the reports, records, or payments within ~~that the time~~ **specified in subsection (a):**

**(1)** the board may fine the employer or department one hundred dollars (\$100) for each additional day that the reports, records, or payments are late, to be withheld under IC 5-10.3-6-7; and

**(2)** if the employer or department is habitually late, as determined by the board, the board shall report the employer or the department to the auditor of state for additional withholding under IC 5-10.3-6-7.

**(c) After December 31, 2009, an employer or department shall submit:**

**(1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and**

**(2) both:**

**(A) employer contributions determined under IC 5-10.2-2-11; and**

**(B) contributions paid by or on behalf of a member under section 9 of this chapter;**

**by electronic funds transfer in accordance with IC 5-10.2-2-12.5.**

SECTION 8. IC 5-10.4-7-6, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due a teacher.

**(b)** Not later than January 15, April 15, July 15, and October 15 of each year **or an alternate due date established by the rules of the**

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**board**, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report as provided in section 7 of this chapter, on a form furnished by the board, to the board accompanied by a warrant for payment of:

(1) the total net contributions to the fund made for or by the members in the preceding three (3) months; and

(2) the employer contributions as required by section 11 of this chapter.

(c) Amendatory reports to correct errors or omissions may be required and made.

**(d) After December 31, 2009, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall submit:**

**(1) the employer report described in section 7 of this chapter in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and**

**(2) the:**

**(A) employer contributions; and**

**(B) contributions paid by or on behalf of a member;**

**described in subsection (b) by electronic funds transfer in accordance with IC 5-10.2-2-12.5.**

SECTION 9. IC 5-10.4-7-7, AS AMENDED BY P.L.72-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year **or an alternate due date established by the rules of the board**, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

(1) the name of each member employed in the preceding reporting period, except substitute teachers;

(2) the total salary and other compensation paid for personal services to each member in the reporting period;

(3) the sum of contributions made for or by each member, except for a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);

(4) the sum of employer contributions made by the school

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1 corporation or other institution, except for a retired member for  
 2 whom or on whose behalf an employer may not make  
 3 contributions during a period of reemployment as provided under  
 4 IC 5-10.2-4-8(e);

5 (5) the number of days each member received salary or other  
 6 compensation for teaching services; and

7 (6) any other information that the board determines necessary for  
 8 the effective management of the fund.

9 (c) As often as the board determines necessary, the board may  
 10 review or cause to be reviewed the pertinent records of any public  
 11 entity contributing to the fund under this article.

12 **SECTION 10. [EFFECTIVE JULY 1, 2009] (a) As used in this**  
 13 **SECTION, "fund" refers to the public employees' retirement fund**  
 14 **established by IC 5-10.3-2-1.**

15 **(b) Not later than October 1, 2009, the fund shall pay the**  
 16 **amount determined under subsection (c) to a member of the fund**  
 17 **(or to a survivor or beneficiary of a member) who retired or was**  
 18 **disabled before January 1, 2009, and who is entitled to receive a**  
 19 **monthly benefit on July 1, 2009. The amount is not an increase in**  
 20 **the pension portion of the monthly benefit.**

21 **(c) The amount paid under this SECTION to a member of the**  
 22 **fund (or to a survivor or beneficiary of a member) who meets the**  
 23 **requirements of subsection (b) is determined as follows:**

If a Member's	The Amount Is:
Creditable Service Is:	
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	\$150
At least 10 years, but less than 20 years	\$275
At least 20 years, but less than 30 years	\$375
At least 30 years	\$450

32 **(d) The creditable service used to determine the amount paid to**  
 33 **a member (or to a survivor or beneficiary of the member) under**  
 34 **this SECTION is the creditable service that was used to compute**  
 35 **the member's retirement benefit under IC 5-10.2-4-4 except that**  
 36 **partial years of creditable service may not be used to determine the**  
 37 **amount paid under this SECTION.**

38 **(e) This SECTION expires January 1, 2010.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1546, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1546 as introduced.)

NIEZGODSKI, Chair

Committee Vote: yeas 9, nays 0.

## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1546, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 5-10.2-1-8, AS AMENDED BY P.L.115-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) ~~Except as provided in subsection (b);~~ For a member of:

**(1) the Indiana state teachers' retirement fund; or**

**(2) the public employees' retirement fund who retires before January 1, 2010;**

"vested status" as used in this article means the status of having ten (10) years of creditable service.

**(b) For a member of the public employees' retirement fund who retires after December 31, 2010, "vested status" as used in this article means the status of having at least eight (8) years of creditable service.**

~~(b)~~ (c) In the case of a person who is an elected county official whose governing body has provided for the county official's participation in the public employees' retirement fund under IC 5-10.3-7-2(1), "vested status" means the status of: ~~having:~~

(1) **having** at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7;

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(2) **having** been elected at least two (2) times if the person would have had at least eight (8) years of creditable service as an elected county official in an office described in IC 5-10.2-4-1.7 had the person's term of office not been shortened under a statute enacted under Article 6, Section 2(b) of the Constitution of the State of Indiana; or

(3) **having:**

(A) **before January 1, 2011**, at least ten (10) years of creditable service; or

(B) **after December 31, 2010, at least eight (8) years of creditable service;**

as a member of the fund based on a combination of service as an elected county official and as a full-time employee in a covered position.

~~(c)~~ (d) In the case of a person whose term of office commences after the election on November 5, 2002, as auditor of state, secretary of state, or treasurer of state, and who is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years during any period of twelve (12) years, that person shall be vested with at least eight (8) years of creditable service as a member of the fund.

~~(d)~~ (e) This subsection applies to an individual elected to the office of treasurer of state at the election on November 7, 2006. The individual is vested for purposes of this article if the individual is reelected as treasurer of state at the 2010 general election and serves in the office until January 1, 2015."

Page 6, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 4. IC 5-10.2-3-1.2, AS AMENDED BY P.L.115-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.2. (a) A member who:

(1) **before January 1, 2011**, has earned at least ten (10) years of service in a position covered by PERF, TRF, or a combination of the two (2) funds; or

(2) **after December 31, 2010, has earned:**

(A) **at least eight (8) years of service in a position covered by PERF; or**

(B) **at least ten (10) years of service in:**

(i) **a position covered by TRF; or**

(ii) **a combination of one (1) or more positions covered by PERF and one (1) or more positions covered by TRF;**

may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF

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or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

- (1) Contributions that are equal to the product of the following:
  - (A) The member's salary at the time the member actually makes a contribution for the service credit.
  - (B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.
  - (C) The number of years of service credit the member intends to purchase.
- (2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.
- (4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:
  - (A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
  - (B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
  - (C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the

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Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 or 6.5 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 5. IC 5-10.2-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This subsection applies to:

- (1) members of the public employees' retirement fund who retire before July 1, 1995; and
- (2) members of the Indiana state teachers' retirement fund who retire before May 2, 1989.

A member who has reached age sixty-five (65) and has at least ten (10) years of creditable service is eligible for normal retirement.

(b) This subsection applies to members of the Indiana state teachers' retirement fund who retire after May 1, 1989, and to members of the public employees' retirement fund who retire after June 30, 1995, **and before January 1, 2011**, except as provided in section 1.7 of this chapter. A member is eligible for normal retirement if:

- (1) the member is at least sixty-five (65) years of age and has at least ten (10) years of creditable service;
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five

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(55) years of age.

**(c) This subsection applies to a member of the public employees' retirement fund who retires after December 31, 2010. A member is eligible for normal retirement if:**

- (1) the member is at least sixty-five (65) years of age and has at least eight (8) years of creditable service;**
- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or**
- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.**

**(c) (d)** A member who has reached age fifty (50) and has at least fifteen (15) years of creditable service is eligible for early retirement with a reduced pension.

**(d) (e)** A member who is eligible for normal or early retirement is entitled to choose a retirement date on which the member's benefit begins if the following conditions are met:

- (1) The application for retirement benefits and the choice of the date is filed on a form provided by the board.
- (2) The date must be after the cessation of the member's service and be the first day of a month.
- (3) The retirement date is not more than six (6) months before the date the application is received by the board. However, if the board determines that a member is incompetent to file for benefits and choose a retirement date, the retirement date may be any date that is the first of the month after the time the member became incompetent.

SECTION 6. IC 5-10.2-4-1.7, AS AMENDED BY P.L.88-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.7. (a) This section applies only to members of the public employees' retirement fund who retire after June 30, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

- (1) has:
  - (A) served as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana for at least eight (8) years; or
  - (B) been elected at least two (2) times and would have served at least eight (8) years as an elected county official in an office described in Article 6, Section 2 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted under Article 6, Section 2(b)

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of the Constitution of the State of Indiana; and  
 (2) is prohibited by Article 6, Section 2 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

- (1) has served as an elected county official; and
- (2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in ~~IC 5-10.2-1-8(b)(3)~~ **IC 5-10.2-1-8(c)(3)**) and meets the requirements of section 1 of this chapter.

SECTION 7. IC 5-10.2-4-1.9, AS ADDED BY P.L.115-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.9. (a) This section applies only to a member of the public employees' retirement fund:

- (1) who has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and
- (2) whose term of office as a state officer commenced after the election held on November 5, 2002.

(b) A member is eligible for normal retirement after becoming sixty-five (65) years of age if the member:

(1) has:

(A) served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana for at least eight (8) years; or

(B) been elected at least two (2) times and would have served at least eight (8) years as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana had the member's term of office not been shortened under a statute enacted to establish uniform dates for beginning the terms of state officers listed in Article 6, Section 1 of the Constitution of the State of Indiana; and

(2) is prohibited by Article 6, Section 1 of the Constitution of the State of Indiana from serving in that office for more than eight (8) years in any period of twelve (12) years.

(c) A member who:

- (1) has served as a state officer listed in Article 6, Section 1 of the Constitution of the State of Indiana; and
- (2) does not meet the requirements of subsection (b);

is eligible for normal retirement if the member has attained vested status (as defined in ~~IC 5-10.2-1-8(a)~~ **IC 5-10.2-1-8**) and meets the requirements of section 1 of this chapter."

Page 7, between lines 28 and 29, begin a new paragraph and insert:

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"SECTION 9. IC 5-10.3-3-1, AS AMENDED BY P.L.62-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The board is composed of six (6) trustees.

(b) Five (5) of the trustees shall be appointed by the governor, as follows:

- (1) One (1) must be a member of the fund with:
  - (A) **before January 1, 2011**, at least ten (10) years of creditable service; **or**
  - (B) **after December 31, 2010, at least eight (8) years of creditable service.**

(2) Not more than three (3) may be members of the same political party.

(3) One (1) must be:

- (A) a:
  - (i) member of the fund or retired member of the fund; or
  - (ii) member of a collective bargaining unit of state employees represented by a labor organization; or
- (B) an individual who is:
  - (i) an officer or a member of a local, a national, or an international labor union that represents state or university employees; and
  - (ii) an Indiana resident.

(c) The director of the budget agency or the director's designee is an ex officio voting member of the board. An individual appointed under this subsection to serve as the director's designee:

- (1) is subject to the provisions of section 3 of this chapter; and
- (2) serves as a permanent designee until replaced by the director.

(d) The governor shall fill by appointment vacancies on the board in the manner described in subsection (b).

(e) In making the appointments under subsection (b)(1) or (b)(2), the governor may consider whether at least one (1) trustee is a retired member of the fund under subsection (b)(3)(A)(i).

SECTION 10. IC 5-10.3-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this section, "withdrawing political subdivision" means a political subdivision that takes an action described in subsection (b).

(b) Subject to the provisions of this section, a political subdivision may do the following:

- (1) Stop its participation in the fund and withdraw all of the political subdivision's employees from participation in the fund.
- (2) Withdraw a departmental, an occupational, or other definable classification of employees from participation in the fund.

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- (3) Stop the political subdivision's participation in the fund by:
  - (A) selling all of the political subdivision's assets; or
  - (B) ceasing to exist as a political subdivision.
- (c) The withdrawal of a political subdivision's participation in the fund is effective on a termination date established by the board. The termination date may not occur before all of the following have occurred:
  - (1) The withdrawing political subdivision has provided written notice of the following to the board:
    - (A) The withdrawing political subdivision's intent to cease participation.
    - (B) The names of the withdrawing political subdivision's current employees and former employees as of the date on which the notice is provided.
  - (2) The expiration of:
    - (A) a ninety (90) day period following the filing of the notice with the board, for a withdrawing political subdivision that sells all of the withdrawing political subdivision's assets or that ceases to exist as a political subdivision; or
    - (B) a two (2) year period following the filing of the notice with the board, for all other withdrawing political subdivisions.
  - (3) The withdrawing political subdivision takes all actions required in subsections (d) through (h).
  - (d) With respect to retired members who have creditable service with the withdrawing political subdivision, the withdrawing political subdivision must contribute to the fund any additional amounts that the board determines are necessary to provide for reserves with sufficient assets to pay all future benefits from the fund to those retired members. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.
  - (e) A member who is an employee of the political subdivision as of the date of the notice under subsection (c) is vested in the pension portion of the member's retirement benefit. The withdrawing political subdivision must contribute to the fund the amount the board determines is necessary to fund fully the vested benefit. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.
  - (f) A member who is covered by subsection (e) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has:
    - (1) **before January 1, 2011**, fewer than ten (10) years of service;

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or

**(2) after December 31, 2010, fewer than eight (8) years of service.**

The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of service.

(g) With respect to members of the fund who have creditable service with the withdrawing political subdivision and who are not employees as of the date of the notice under subsection (c), the withdrawing political subdivision must contribute the amount that the board determines is necessary to fund fully the service for those members that is attributable to service with the withdrawing political subdivision. The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments determined by the board.

(h) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny a political subdivision permission to withdraw if the denial is necessary to achieve compliance with Section 401(a)(4) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 11. IC 5-10.3-6-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) This section only applies if:

(1) certain employees of a state university in a departmental, occupational, or other definable classification involved in health care are terminated from employment with the state university as a result of:

(A) a lease or other transfer of university property to a nongovernmental entity; or

(B) a contractual arrangement with a nongovernmental entity to perform certain state university functions;

(2) the state university requests coverage under this section from the board; and

(3) the board approves the request.

(b) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

(1) The state university has requested coverage under this section and provided written notice of the following to the board:

(A) The intent of the state university to terminate the

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employees from employment.

(B) The names of the terminated employees as of the date that the termination is to occur.

(2) The expiration of a thirty (30) day period following the filing of the notice with the board.

(3) The state university fully complies with subsection (c).

(c) A member who is an employee of the state university described in subsection (a) as of the date of the notice under subsection (b) and who is listed in the notice under subsection (b) is vested in the pension portion of the member's retirement benefit. The state university must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state university must be made in a lump sum or in a series of payments determined by the board.

(d) A member who is covered by subsection (c) and who is at least sixty-five (65) years of age may elect to retire under IC 5-10.2-4-1 even if the member has:

**(1) before January 1, 2011, less than ten (10) years of service; or**

**(2) after December 31, 2010, less than eight (8) years of service.**

The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(e) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 12. IC 5-10.3-6-8.9, AS ADDED BY P.L.158-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.9. (a) This section applies when certain employees of the state in particular departmental, occupational, or other definable classifications are terminated from employment with the state as a result of:

(1) a lease or other transfer of state property to a nongovernmental entity; or

(2) a contractual arrangement with a nongovernmental entity to perform certain state functions.

(b) The governor shall request coverage under this section from the board whenever an employee of the state is terminated as described in subsection (a).

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(c) The board must approve a request from the governor under subsection (b) unless approval violates subsection (k), federal or state law, or the terms of the fund.

(d) As used in this section, "early retirement" means a member is eligible to retire with a reduced pension under IC 5-10.2-4-1, because the member:

- (1) is at least fifty (50) years of age; and
- (2) has at least fifteen (15) years of creditable service.

(e) As used in this section, "normal retirement" means a member is eligible to retire under IC 5-10.2-4-1, because:

- (1) the member is at least sixty-five (65) years of age and has:
  - (A) before January 1, 2011, at least ten (10) years of creditable service; or**
  - (B) after December 31, 2010, at least eight (8) years of creditable service.**

- (2) the member is at least sixty (60) years of age and has at least fifteen (15) years of creditable service; or

- (3) the member's age in years plus the member's years of service is at least eighty-five (85) and the member is at least fifty-five (55) years of age.

(f) The withdrawal of the employees described in subsection (a) from the fund is effective on a termination date established by the board. The board may not establish a termination date that occurs before all of the following have occurred:

- (1) The governor has requested coverage under this section and provided written notice of the following to the board:
  - (A) The intent of the state to terminate the employees from employment.
  - (B) The names of the terminated employees as of the date that the termination is to occur.
- (2) The expiration of a thirty (30) day period following the filing of the notice with the board.
- (3) The state complies with subsections (g) and (i).

(g) A member who:

- (1) is an employee of the state described in subsection (a) with at least twenty-four (24) months of creditable service as of the date of the notice under subsection (f); and
- (2) is listed in the notice under subsection (f);

is vested in the pension portion of the member's retirement benefit. The state must contribute to the fund the amount the board determines is necessary to completely fund the vested benefit. The contribution by the state must be made in a lump sum or in a series of payments

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determined by the board. The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(h) A member who is covered by subsection (g) and who is at least sixty-five (65) years of age as of the date of the notice under subsection (f) may elect to retire under IC 5-10.2-4-1 even if the member has:

- (1) before January 1, 2011, less than ten (10) years of service;**
- or**
- (2) after December 31, 2010, less than eight (8) years of service.**

The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service.

(i) A member who is covered by subsection (f) and who, as of the date of the notice under subsection (f), is less than twenty-four (24) months from being eligible for normal or early retirement under IC 5-10.2-4-1 may elect to retire by purchasing the service credit needed for retirement under the following conditions:

- (1) The state shall contribute to the fund an amount determined under IC 5-10.2-3-1.2 and payable from the sources described in subsection (j) sufficient to pay the member's contributions required for the member's purchase of the service credit the member needs to retire.
- (2) The maximum amount of creditable service that the state may purchase for a member under this subsection is twenty-four (24) months.
- (3) The benefit for the member shall be computed under IC 5-10.2-4-4 using the member's actual years of creditable service plus all other service for which the fund gives credit, including the creditable service purchased under this subsection.

(j) The amounts that the state is required to contribute to the fund under subsection (i) must come from the following sources:

- (1) If the state receives monetary payments under the lease or contractual arrangement described in subsection (a), the proceeds of the monetary payments received by the state. The state may not require, as a condition of the transaction to transfer state property or have certain state functions performed by a nongovernmental entity, that the nongovernmental entity directly or indirectly pay the amounts that the state is required to contribute under subsection (i).
- (2) If the state does not receive any monetary payments under the lease or contractual arrangement described in subsection (a), any remaining appropriations made to the state department, agency,

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or other entity terminating the employees described in subsection (a).

(3) If the sources described in subdivisions (1) and (2) do not fully fund the amounts that the state is required to contribute to the fund under subsection (i), the board shall request that the general assembly appropriate the amount necessary to fully fund the state's required contribution under subsection (i) in the next biennial state budget.

(k) The board shall evaluate each withdrawal under this section to determine if the withdrawal affects the fund's compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974. The board may deny an employee permission to withdraw if the denial is necessary to achieve compliance with Section 401(a) of the Internal Revenue Code of 1954, as in effect on September 1, 1974.

SECTION 13. IC 5-10.3-7-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.5. (a) As used in this section, "out-of-state service" means service in another state in a comparable position that would be creditable service if performed in Indiana.

(b) Subject to subsections (c) through (f), a member may purchase out-of-state service credit if the member meets the following requirements:

(1) The member has at least one (1) year of creditable service in the fund.

(2) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

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(3) The member has received verification from the fund that the out-of-state service is, as of that date, valid.

(c) Out-of-state years that qualify a member for retirement in an out-of-state system or in any federal retirement system may not be granted under this section.

(d) At least:

**(1) before January 1, 2011, ten (10); or**

**(2) after December 31, 2010, eight (8);**

years of service in Indiana is required before a member may receive a benefit based on out-of-state service credits.

(e) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(f) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 14. IC 5-10.3-7-4.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.6. (a) Subject to the provisions of this section, a member may purchase service credit for the member's prior service in a position covered by the 1925 police pension fund under IC 36-8-6, the 1937 firefighters' pension fund under IC 36-8-7, or the 1953 police pension fund under IC 36-8-7.5 if the member meets the following requirements:

(1) The member has at least one (1) year of credited service in the fund.

(2) The member has not attained vested status in and is not an active member of the 1925 police pension fund, the 1937

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firefighters' pension fund, or the 1953 police pension fund.

(3) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member has received verification from the fund that the service in the 1925 police pension fund, the 1937 firefighters' pension fund, or the 1953 police pension fund is, as of that date, valid.

(b) At least:

**(1) before January 1, 2011, ten (10); or**

**(2) after December 31, 2010, eight (8);**

years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section.

(c) A member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or

(2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(d) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

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(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 15. IC 5-10.3-7-4.8, AS ADDED BY P.L.148-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.8. (a) As used in this section, "state quasi-governmental entity service" means service in Indiana that would be considered creditable service if performed by an employee of a member of the fund by an individual who:

- (1) provided the service as an employee of a body corporate and politic, nonprofit corporation established by the state, or other quasi-governmental entity that performed a state governmental function; and
- (2) was not a member of the fund under section 1 of this chapter during the period of employment.

(b) A member may purchase state quasi-governmental entity service credit subject to the following:

- (1) The member must have at least one (1) year of credited service in the fund.
- (2) The member must have at least:
  - (A) **before January 1, 2011, ten (10); or**
  - (B) **after December 31, 2010, eight (8);**

years of in-state credited service before the member may claim the service credit.

(3) Before the member retires, the member must make contributions to the fund:

- (A) that are equal to the product of:
  - (i) the member's salary at the time the member actually makes a contribution for the service credit;
  - (ii) a percentage rate, as determined by the actuary of the fund, based on the age of the member at the time the member makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and
  - (iii) the number of years of state quasi-governmental entity service the member intends to purchase; and
- (B) for any accrued interest, at a rate determined by the

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actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(4) The member must provide verification of the service with the state quasi-governmental entity in a manner prescribed by the fund.

(c) State quasi-governmental entity service that qualifies a member for retirement in a private retirement system or a federal retirement system may not be granted under this section.

(d) A member who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance; or
- (2) receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act;

may withdraw the personal contributions made under the contributory plan plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

- (1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

SECTION 16. IC 5-10.3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A member who:

- (1) enters the United States armed services;
- (2) leaves ~~his~~ **the member's** contributions in the fund;
- (3) except as provided in subsection (c), resumes service with ~~his~~ **the member's** employer within one hundred twenty (120) days after ~~his~~ **the member's** unconditional discharge; and
- (4) would be entitled to service credit for military service under the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.) if the member had resumed service with the member's employer within ninety (90) days after

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discharge;  
is entitled to service credit for the armed service.

(b) A state employee who left employment before January 1, 1946, or an employee of a political subdivision who left employment before the participation date, to enter the United States armed services is entitled to service credit for the armed service if ~~he~~ **the employee:**

- (1) except as provided in subsection (c), resumes service with the employer within one hundred twenty (120) days after ~~his~~ **the employee's** unconditional discharge; and
- (2) would be entitled to service credit for military service under the applicable requirements of federal law in effect at the time of reemployment if the employee had resumed service with the employee's employer within ninety (90) days after discharge.

(c) The board shall extend the one hundred twenty (120) day reemployment requirement contained in subsection (a)(3) or (b)(1) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from resuming employment within one hundred twenty (120) days after the member's discharge from military service. However, the board may not extend the deadline beyond thirty (30) months after the member's discharge.

(d) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection (c), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

(e) Notwithstanding any provision of this section, a member is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

(f) Subject to the provisions of this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

- (1) The member has at least one (1) year of credited service in the fund.
- (2) The member serves on active duty in the armed services of the United States for at least six (6) months.
- (3) The member receives an honorable discharge from the armed services.

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(4) Before the member retires, the member makes contributions to the fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The member's salary at the time the member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.

(iii) The number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least **before January 1, 2011, ten (10) or after December 31, 2010, eight (8)** years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

(g) The following apply to the purchase of service credit under subsection (f):

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service

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credit."

Page 7, delete lines 34 through 35.

Page 7, line 36, delete "(c)" and insert "**(b)**".

Page 7, line 36, delete "September" and insert "**October**".

Page 7, line 37, delete "(d) to:" and insert "**(c) to**".

Page 7, line 38, delete "(1)".

Page 7, line 38, after "beneficiary of a" insert "**member**".

Page 7, delete lines 39 through 40.

Page 7, run in lines 37 through 41.

Page 8, line 3, delete "(d)" and insert "**(c)**".

Page 8, line 4, delete "or a participant".

Page 8, line 5, delete "of the plan".

Page 8, line 5, delete "(c)" and insert "**(b)**".

Page 8, line 7, delete "or"

Page 8, line 8, delete "Participant's".

Page 8, line 16, delete "(e)" and insert "**(d)**".

Page 8, line 17, delete "or a".

Page 8, line 18, delete "participant of the plan".

Page 8, line 19, delete ":".

Page 8, line 20, delete "(1)".

Page 8, line 20, delete "IC 5-10.2-4-4; or" and insert "**IC 5-10.2-4-4,**".

Page 8, delete line 21.

Page 8, run in lines 19 through 22.

Page 8, line 24, delete "(f)" and insert "**(e)**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1546 as printed February 17, 2009.)

CRAWFORD, Chair

Committee Vote: yeas 20, nays 0.

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#### HOUSE MOTION

Mr. Speaker: I move that House Bill 1546 be amended to read as follows:

Page 3, line 21, delete "2010;" and insert "**2011;**".

(Reference is to HB 1546 as printed February 20, 2009.)

NIEZGODSKI

**EH 1546—LS 7419/DI 102+**



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## COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1546, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS and be reassigned to the Senate Committee on Appropriations.

(Reference is made to House Bill 1546 as reprinted February 24, 2009.)

KRUSE, Chairperson

Committee Vote: Yeas 9, Nays 0.

## COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Engrossed House Bill No. 1546, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 17, after "increments" delete "." and insert "**or smaller increments that may be established by the rules of the board.**".

Page 3, delete lines 15 through 42.

Page 4, delete lines 1 through 17.

Page 5, line 12, delete "A" and insert "**Except as provided in section 4(e) of this chapter, a**".

Page 7, delete lines 8 through 42, begin a new paragraph and insert: "SECTION 3. IC 5-10.2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **Except as provided in subsection (e)**, interest shall be credited and compounded at least annually on all amounts credited to the member in the guaranteed program. For the guaranteed program, the board shall annually establish an interest credit rate equal to or less than the investment income earned.

(b) **Except as provided in subsection (e)**, the market value of each alternative investment program shall be allocated at least annually to the members participating in that program.

(c) Contributions to the guaranteed program and the alternative investment programs shall be invested as of the last day of the quarter in which the contributions are received **or at an alternate time established by the rules of each board.** Contributions to the

EH 1546—LS 7419/DI 102+



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guaranteed program shall begin to accumulate interest at the beginning of the quarter after the quarter in which the contributions are received **or at an alternate time established by the rules of each board.**

(d) When a member retires or withdraws with a balance in the guaranteed program, a proportional interest credit determined by the board shall be granted for the period elapsed since the last interest date on that balance.

(e) **This subsection applies whenever the board is required to establish an interest or earnings rate in order to credit interest or earnings to an omitted contribution to a member's annuity savings account. As used in this subsection, "omitted contribution" means a contribution that is contributed by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11 and that is received by the board after the time required by IC 5-10.3-7-12.5 or IC 5-10.4-7-6(b)(1). Notwithstanding any law to the contrary, each board may by rule specify:**

- (1) a single composite interest rate and the period to which the rate applies for the purpose of computing the interest credits on a member's contributions (including omitted contributions) in the guaranteed fund; and
- (2) a single composite earnings rate for the gain or loss in market value for each alternative investment program and the period to which the rate applies for the purpose of computing the gain or loss in market value on a member's contributions (including omitted contributions) in the alternate investment program.

SECTION 4. IC 5-10.2-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 12.5. (a) This section applies to reports, records, and contributions submitted after December 31, 2009, by an employer.**

(b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f).

(c) Except as provided in subsection (e), an employer shall submit through the use of electronic funds transfer:

- (1) the employer contributions determined under section 11 of this chapter; and
- (2) contributions paid by or on behalf of a member under IC 5-10.3-7-9 or IC 5-10.4-4-11.

(d) Except as provided in subsection (e), an employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board

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the reports and records described in:

- (1) IC 5-10.3-7-12.5, for the public employees' retirement fund; or
- (2) IC 5-10.4-7-6, for the Indiana state teachers' retirement fund.

(e) An employer that is unable to comply with either subsection (c) or (d), or both, may request that the board grant a waiver of the requirement of subsection (c) or (d), or both. The employer must:

- (1) state the reason for requesting the waiver;
- (2) provide a date, not to exceed two (2) years from the date the employer is first subject to either the electronic funds transfer requirement or the electronic reporting requirement of this section, by which the employer agrees to comply with the requirement of subsection (c) or (d), or both; and
- (3) sign and verify the waiver form.

(f) The board may:

- (1) grant the employer's request for a waiver; and
- (2) specify the date by which the employer is required to comply with the electronic funds transfer requirement or the electronic reporting requirement, or both.

(g) The board shall establish a waiver form consistent with this section.

(h) The board may establish or amend its rules or policies as necessary to administer this section.

SECTION 5. IC 5-10.2-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. ~~Suspension of Membership.~~ (a) A member who is not eligible for retirement or disability retirement may suspend ~~his the member's~~ membership if ~~he the member~~ terminates employment.

(b) After five (5) continuous years in which ~~he the member~~ performs no service, ~~his the member's~~ membership shall be automatically suspended by the board unless ~~he is the member has~~ vested status.

(c) The board may suspend a member's membership in the fund if:

- (1) the member has not performed any service in a covered position during the past two (2) years;
- (2) the member has not attained vested status in the fund; and
- (3) the value of the member's annuity savings account is not more than ~~two hundred one thousand dollars (\$200)~~ **(\$1,000)**.

(d) On resuming service the member may claim as creditable service the period of employment before the suspension of membership, but only to the extent that the same period of employment

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is not being used by another governmental plan for purposes of the member's benefit in the other governmental plan."

Delete pages 8 through 10.

Page 11, delete lines 1 through 21.

Page 13, delete lines 4 through 42, begin a new paragraph and insert:

"SECTION 7. IC 5-10.3-7-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. **(a)** An employer or department ~~must~~ **shall** make the reports, membership records, or payments required by IC 5-10.3-6 or by sections 10 through 12 of this chapter:

**(1)** not more than thirty (30) days after the end of the calendar quarter, if applicable; ~~or~~

**(2)** another due date specified in sections 10 through 12 of this chapter; **or**

**(3) an alternate due date established by the rules of the board.**

**(b)** If the employer or department does not make the reports, records, or payments within ~~that~~ **the time specified in subsection (a):**

**(1)** the board may fine the employer or department one hundred dollars (\$100) for each additional day that the reports, records, or payments are late, to be withheld under IC 5-10.3-6-7; and

**(2)** if the employer or department is habitually late, as determined by the board, the board shall report the employer or the department to the auditor of state for additional withholding under IC 5-10.3-6-7.

**(c) After December 31, 2009, an employer or department shall submit:**

**(1) the reports and records described in subsection (a) in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and**

**(2) both:**

**(A) employer contributions determined under IC 5-10.2-2-11; and**

**(B) contributions paid by or on behalf of a member under section 9 of this chapter;**

**by electronic funds transfer in accordance with IC 5-10.2-2-12.5.**

SECTION 8. IC 5-10.4-7-6, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. **(a)** As used in this section, "net contributions" means the gross amount of a member's contributions minus any refund paid or due

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a teacher.

(b) Not later than January 15, April 15, July 15, and October 15 of each year **or an alternate due date established by the rules of the board**, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make an employer report as provided in section 7 of this chapter, on a form furnished by the board, to the board accompanied by a warrant for payment of:

- (1) the total net contributions to the fund made for or by the members in the preceding three (3) months; and
- (2) the employer contributions as required by section 11 of this chapter.

(c) Amendatory reports to correct errors or omissions may be required and made.

(d) **After December 31, 2009, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall submit:**

- (1) the employer report described in section 7 of this chapter in a uniform format through a secure connection over the Internet or through other electronic means specified by the board in accordance with IC 5-10.2-2-12.5; and**
- (2) the:**
  - (A) employer contributions; and**
  - (B) contributions paid by or on behalf of a member; described in subsection (b) by electronic funds transfer in accordance with IC 5-10.2-2-12.5.**

SECTION 9. IC 5-10.4-7-7, AS AMENDED BY P.L.72-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Not later than January 15, April 15, July 15, and October 15 of each year **or an alternate due date established by the rules of the board**, the treasurer of a school corporation, the township trustee, or the appropriate officer of any other institution covered by the fund shall make a report to the board on a form furnished by the board and within the time set by the board. Amendatory reports to correct errors or omissions may be required and made.

(b) The report required by subsection (a) must include:

- (1) the name of each member employed in the preceding reporting period, except substitute teachers;
- (2) the total salary and other compensation paid for personal services to each member in the reporting period;
- (3) the sum of contributions made for or by each member, except

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for a retired member who may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);

(4) the sum of employer contributions made by the school corporation or other institution, except for a retired member for whom or on whose behalf an employer may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(e);

(5) the number of days each member received salary or other compensation for teaching services; and

(6) any other information that the board determines necessary for the effective management of the fund.

(c) As often as the board determines necessary, the board may review or cause to be reviewed the pertinent records of any public entity contributing to the fund under this article."

Delete pages 14 through 25.

Page 26, delete lines 1 through 6.

Page 26, line 14, delete "shall be paid as a".

Page 26, line 15, delete "single check and".

Page 26, line 20, after "Amount" delete "of the" and insert "Is:".

Page 26, line 21, delete "Check Is:".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to EHB 1546 as printed March 27, 2009.)

KENLEY, Chairperson

Committee Vote: Yeas 11, Nays 0.

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